

APPEAL NO. 031660
FILED AUGUST 4, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 29, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease, with a date of injury of _____; and that the claimant had disability beginning on April 29, 2002, and continuing through April 28, 2003. The appellant (self-insured) appeals, asserting that the decision is not supported by the evidence, and should be reversed. In the alternative, the self-insured asks that the case be remanded back to the hearing officer "for specification of the nature of the injury he found Claimant to have sustained." The claimant responds, urging affirmance.

DECISION

Affirmed.

The issues of injury and disability presented questions of fact for the fact finder. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. There was conflicting evidence in this case. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. commercial insurance company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer was satisfied that the "greater weight of the credible evidence, including the medical evidence, supports the conclusion that Claimant did sustain damage to the physical structure of her body as a result of repetitious, physically traumatic work activities." He further found that the claimant established disability for the period from April 29, 2002, through April 28, 2003, by her testimony and the records from the claimant's treating doctor. Nothing in our review of the record reveals that the hearing officer's injury and disability determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Concerning the self-insured's request that the case be remanded back to the hearing officer "for specification of the nature of the injury he found Claimant to have sustained," we agree with the claimant's position that there was no extent-of-injury issue before the hearing officer, and under the circumstances of this case, it would have been inappropriate for the hearing officer to decide an issue that was not before him.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge